

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOBBY DARRELL COLBERT,

CASE NO. 2:23-cv-1122

Petitioner,

ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT

V.

JASON BENNETT,

Respondent.

This matter comes before the Court on Petitioner Bobby Darrell Colbert's motion for relief from judgment. Dkt. No. 21. Having considered the motion, the record, and the law, the Court DENIES Colbert's motion for the reasons stated below.

On April 23, 2024, the Court adopted the Honorable Michelle L. Peterson’s Report and Recommendation (“R&R”), overruled Colbert’s objections to the R&R, and dismissed Colbert’s petition for lack of jurisdiction. Dkt. Nos. 19, 20. Specifically, the Court agreed with Judge Peterson’s finding that Colbert’s intended habeas petition was successive under 28 U.S.C. § 2244(b) and required Ninth Circuit authorization. Dkt. No. 19 at 3.

1 Colbert now seeks to reopen his habeas case, arguing that the Court failed to
2 consider his objections de novo, and therefore, applied an incorrect legal standard.
3 Dkt. No. 21 at 2-3.

4 Under Rule 60(b)(4)—the rule that Colbert invokes—a final judgment is void
5 “only if the court that considered it lacked jurisdiction . . . or acted in a manner
6 inconsistent with due process.” *United States v. Berke*, 170 F.3d 882, 883 (9th Cir.
7 1999). Here, Colbert claims the Court failed to “review dispositive matters de novo
8 following [his] objections” and thus violated “not only . . . the Magistrates Act and
9 Habeas Rule 8(b), but also . . . Article III and the Due Process Clause of the 5th and
10 14th Amendment[s] to the United States Constitution.” Dkt. No. 21 at 2.

11 As explained by the Court in its prior Order, it reviewed and made “a de novo
12 determination of those portions of the report or specified proposed findings or
13 recommendations to which objection [was] made” per 28 U.S.C. § 636(b)(1)(C). Dkt.
14 No. 19 at 3. Further, “[n]one of Colbert’s objections address[ed] the fact that he
15 [was] seeking habeas relief related to the same criminal conviction” as his prior
16 petition nor did they “address the Court’s lack of jurisdiction to consider a second or
17 successive habeas petition until the Ninth Circuit has authorized its filing.”
18 Accordingly, the Court overruled Colbert’s objections, which instead focused on the
19 portion of the R&R striking Colbert’s motion for records, motion to appoint counsel,
20 and motion for judicial notice. *See* Dkt. No. 16 at 1-2.

1 The Court did not commit legal error and there is no reason that its judgment
2 is void. Accordingly, the Court DENIES Colbert's motion for relief from judgment,
3 Dkt. No. 21, and this case remains closed.

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5 Dated this 23rd day of October, 2024.

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8 Jamal N. Whitehead
9 United States District Judge

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